

**FINAL RESOLUTION**  
*(Verus Development LLC Project)*

A regular meeting of the City of Yonkers Industrial Development Agency was convened in public session on May 25, 2023.

The following resolution was duly offered and seconded, to wit:

**Resolution No. 05/2023 - 09**

RESOLUTION OF THE CITY OF YONKERS INDUSTRIAL DEVELOPMENT AGENCY (THE "AGENCY") (i) ACKNOWLEDGING THE PUBLIC HEARING HELD BY THE AGENCY WITH RESPECT TO THE VERUS DEVELOPMENT LLC PROJECT, (ii) AUTHORIZING THE EXECUTION AND DELIVERY OF AN AGENT, FINANCIAL ASSISTANCE AND PROJECT AGREEMENT, LEASE AGREEMENT, LEASEBACK AGREEMENT, TAX AGREEMENT, TAX AGREEMENT MORTGAGE AND RELATED DOCUMENTS; (iii) AUTHORIZING FINANCIAL ASSISTANCE IN THE FORM OF A REAL PROPERTY TAX ABATEMENT STRUCTURED THROUGH A TAX AGREEMENT; AND (iv) AUTHORIZING THE EXECUTION AND DELIVERY OF A MORTGAGE AND RELATED DOCUMENTS, IF REQUIRED

WHEREAS, by Title 1 of Article 18-A of the General Municipal Law of the State of New York, as amended, and Chapter 83 of the Laws of 1982 of the State of New York (the "State"), as amended (hereinafter collectively called the "Act"), the Agency was created with the authority and power to own, lease and sell property for the purpose of, among other things, acquiring, constructing and equipping civic, industrial, manufacturing and commercial facilities as authorized by the Act; and

WHEREAS, **VERUS DEVELOPMENT LLC**, for itself or an entity to be formed (the "Company") has submitted an application (the "Application") to the Agency requesting the Agency's assistance with a certain project (the "Project") consisting of: (i) the acquisition or retention of the land commonly known as 345 McLean Avenue (Section 1, Block 59, Lot 75) (the "Land"); (ii) the construction, renovation, improving, maintaining and equipping on the Land of a 110,000 square foot, 12 story residential building including: (A) approximately 105 studio, one-bedroom and two-bedroom rental units (of which approximately 31 one-bedroom apartments will be set aside for seniors with special needs); (B) 53 covered and uncovered parking spaces; (C) associated amenities, including a community room equipped with computers, a library, recreational space, property managers office, Supportive Housing office, laundry room and bike storage; and (D) building services including trash, utility, and mechanical and superintendent workshop (the "Improvements"); (iii) the acquisition and installation in and around the Land and Improvements of certain items of equipment and other tangible personal property (the "Equipment", which together with the Land and Improvements are the "Facility"); and

WHEREAS, on March 6, 2023, the Agency adopted a preliminary resolution with respect to the Project and the construction of the Facility: (i) accepting the Application of the Company, (ii) directing that a public hearing be held, and (iii) describing the Financial Assistance (as hereinafter defined) being contemplated by the Agency with respect to the Project; and

WHEREAS, it is contemplated that the Agency will enter into an agent, financial assistance and project agreement, pursuant to which the Agency will designate the Company as its agent for the purpose of constructing and equipping the Project (the “Agent Agreement”), (ii) negotiate and enter into a lease agreement (the “Lease Agreement”), leaseback agreement (the “Leaseback Agreement”) and tax agreement (the “Tax Agreement”) with the Company, and, if required by the Agency, a Tax Agreement mortgage (the “Tax Agreement Mortgage”), (iii) take a leasehold interest in the Land, the Improvements and Equipment constituting the Project (once the Lease Agreement, Leaseback Agreement and Tax Agreement (and Tax Agreement Mortgage, if applicable have been negotiated), and (iv) provide Financial Assistance to the Company in the form of a partial real property tax abatement structured through the Tax Agreement; and

WHEREAS, pursuant to General Municipal Law Section 859-a, on Tuesday, May 9, 2023, at 3:00 p.m. local time, at the offices of Agency at 470 Nepperhan Avenue, Suite 200, Yonkers, New York 10701, the Agency held a public hearing with respect to the Project and the proposed Financial Assistance being contemplated by the Agency (the “Public Hearing”) whereat interested parties were provided a reasonable opportunity, both orally and in writing, to present their views. A copy of the Notice of Public Hearing - published and forwarded to the affected taxing jurisdictions with Notice Letter at least ten (10) days prior to said Public Hearing - is attached hereto as Exhibit A, along with the Affidavit of Publication of *The Journal* News, and Minutes of the Public Hearing; and

WHEREAS, pursuant to the New York State Environmental Quality Review Act, Article 8 of the Environmental Conservation Law and the regulations adopted pursuant thereto at 6 N.Y.C.R.R. Part 617, as amended (collectively referred to as “SEQRA”), the Agency must satisfy the applicable requirements set forth in SEQRA, as necessary, prior to making a final determination whether to undertake the Project; and

WHEREAS, on February 8, 2023, the Planning Board of the City of Yonkers (the “Planning Board”) adopted a unanimous resolution seeking “lead agency” status for the coordinated review of the Project; and

WHEREAS, the Planning Board designated itself to act as Lead Agency for purposes of a review of the Project as a proposed action under SEQRA and conducted a review of the Project (the “Planning Board Review”); and

WHEREAS, at the conclusion of the Planning Board Review, on March 8, 2023, the Planning Board determined that the Project constituted a “Type I” action pursuant to SEQRA, and following a coordinated review, the Planning Board determined that the Project would have no significant adverse effects (the “Planning Board SEQRA Findings”) and issued its negative declaration, attached hereto as Exhibit B (the “Planning Board Negative Declaration”); and

WHEREAS, the number of jobs to be created or maintained at the Facility are projected to be six (6).

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE AGENCY AS FOLLOWS:

Section 1. The Public Hearing held concerning the Project and the Financial Assistance was duly held in accordance with the Act, including, but not limited to, the giving of at least ten (10) days published notice of the Public Hearing (such notice also provided to the Chief Executive Officer of each affected tax jurisdiction), affording interested parties a reasonable opportunity, both orally and in writing, to present their views with respect to the Project. The Agency hereby determines that the Project is a “commercial” project under the Act, and that undertaking and providing financial assistance to the Project (i) will promote and maintain the job opportunities, health, general prosperity and economic welfare of the citizens of the City and the State and improve their standard of living, (ii) will preserve the competitive position of the Project and will not result in the removal of an industrial, manufacturing or commercial plant of the Company or any occupant of the Project from one area of the State to another area of the State or in the abandonment of one or more plants or facilities of the Company or any occupant of the Project except as permitted by the Act, and (iii) is authorized by the Act and will be in furtherance of the policy of the State as set forth therein.

Section 2. The Agency is hereby authorized to provide to the Company the Financial Assistance in the form of a real property tax abatement structured through the Tax Agreement.

Section 3. Subject to the Company executing an Agent Agreement (in a form to be approved by Counsel to the Agency and/or Transaction Counsel) and the delivery to the Agency of a binder, certificate or other evidence of liability insurance policy for the Project satisfactory to the Agency, the Agency hereby authorizes the Company to proceed with the acquisition, construction and equipping of the Project and hereby appoints the Company as the true and lawful agent of the Agency: (i) to acquire, construct and equip the Project; (ii) to make, execute, acknowledge and deliver any contracts, orders, receipts, writings and instructions, as the stated agent for the Agency with the authority to delegate such agency, in whole or in part, to agents, subagents, contractors, and subcontractors of such agents and subagents and to such other parties as the Company chooses; and (iii) in general, to do all things which may be requisite or proper for completing the Project, all with the same powers and the same validity that the Agency could do if acting in its own behalf; *provided, however*, the Agent Agreement shall expire on **December 31, 2025** (unless extended for good cause by the Executive Director of the Agency) if the Lease Agreement, Leaseback Agreement, Tax Agreement and Tax Agreement Mortgage contemplated have not been executed and delivered.

Section 4. The Chairman, Vice Chairman, President, Executive Director, Secretary and/or the CFO of the Agency the Agency are hereby authorized, on behalf of the Agency, to negotiate and enter into (A) the Agent Agreement, (B) the Lease Agreement, pursuant to which the Company leases the Project to the Agency, (C) the related Leaseback Agreement, pursuant to which the Agency leases its interest in the Project back to the Company, and (D) the Tax

Agreement and Tax Agreement Mortgage; *provided, that*, (i) the rental payments under the Leaseback Agreement include payments of all costs incurred by the Agency arising out of or related to the Project and indemnification of the Agency by the Company for actions taken by the Company and/or claims arising out of or related to the Project; and (ii) the terms of the Tax Agreement are consistent with the Agency's Uniform Tax Exemption Policy or the procedures for deviation have been complied with.

Section 5. The Chairman, Vice Chairman, Executive Director and/or the Secretary of the Agency are hereby authorized, on behalf of the Agency, to execute, deliver and record any mortgage, security agreement, UCC-1 Financing Statements and all documents reasonably contemplated by these resolutions or required by any reputable lender identified by the Company, up to a maximum principal amount necessary to refinance existing Company debt and to undertake the Project, acquire the Facility and/or finance or refinance the Facility or equipment and other personal property and related transactional costs (hereinafter, with the Agent Agreement, Lease Agreement, Leaseback Agreement, Tax Agreement and Tax Agreement Mortgage, collectively called the "Agency Documents"); and, where appropriate, the Secretary or Assistant Secretary of the Agency is hereby authorized to affix the seal of the Agency to the Agency Documents and to attest the same, all with such changes, variations, omissions and insertions as the Chairman, Vice Chairman, Executive Director and/or the Secretary of the Agency shall approve, the execution thereof by the Chairman, Vice Chairman, Executive Director and/or the Secretary of the Agency to constitute conclusive evidence of such approval; provided in all events recourse against the Agency is limited to the Agency's interest in the Project.

Section 6. The officers, employees and agents of the Agency are hereby authorized and directed for and in the name and on behalf of the Agency to do all acts and things required and to execute and deliver all such certificates, instruments and documents, to pay all such fees, charges and expenses and to do all such further acts and things as may be necessary or, in the opinion of the officer, employee or agent acting, desirable and proper to effect the purposes of the foregoing resolutions and to cause compliance by the Agency with all of the terms, covenants and provisions of the documents executed for and on behalf of the Agency.

Section 7. The Agency hereby finds and determines as follows: (i) the Project is a "Type I" action under SEQRA; (ii) the requirements of SEQRA have been met; and (iii) the Agency concurs with the Planning Board SEQRA Findings and Planning Board Negative Declaration and finds that the Project will result in no significant adverse impacts on the environment and therefore, an environmental impact statement need not be prepared.

Section 8. This Resolution shall take effect immediately upon adoption.

Date: May 25, 2023

The question of the adoption of the foregoing Resolution was duly put to a vote on roll call, which resulted as follows:

	<i>Yea</i>		<i>Nay</i>		<i>Abstain</i>		<i>Absent</i>	
Mayor Mike Spano	[✓	]	[	]	[	]	[	]
Marlyn Anderson	[✓	]	[	]	[	]	[	]
Melissa Nacerino	[✓	]	[	]	[	]	[	]
Hon. Cecile D. Singer	[✓	]	[	]	[	]	[	]
Henry Djonbalaj	[✓	]	[	]	[	]	[	]
Roberto Espiritu	[✓	]	[	]	[	]	[	]
Victor Gjonaj	[✓	]	[	]	[	]	[	]

The Resolution was thereupon duly adopted.

**CERTIFICATION**  
*(Verus Development LLC Project)*

STATE OF NEW YORK                    )  
COUNTY OF WESTCHESTER        ) ss.:

I, MARLYN ANDERSON, the undersigned Secretary of the City of Yonkers Industrial Development Agency DO HEREBY CERTIFY:

That I have compared the annexed extract of minutes of the meeting of the City of Yonkers Industrial Development Agency (the “Agency”), including the resolution contained therein, held May 25, 2023, with the original thereof on file in my office, and that the same is a true and correct copy of the proceedings of the Agency and of such resolution set forth therein and of the whole of said original insofar as the same related to the subject matters therein referred to.

I FURTHER CERTIFY, that all members of said Agency had due notice of said meeting, that the meeting was in all respects duly held and that, pursuant to Article 7 of the Public Officers Law (Open Meetings Law), said meeting was open to the general public, and that public notice of the time and place of said meeting was duly given in accordance with such Article 7.

I FURTHER CERTIFY, that there was a quorum of the members of the Agency present throughout said meeting.

I FURTHER CERTIFY, that as of the date hereof, the attached resolution is in full force and effect and has not been amended, repealed or modified.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Agency this 4 day of May 2023.

  
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Marlyn Anderson, Secretary

[SEAL]

YIDA Resolution No. 05/2023-09  
Final Resolution – Verus Development LLC  
May 25, 2023  
TC: Harris Beach PLLC

**EXHIBIT A**

Notice of Public Hearing  
Notice Letter  
Evidence of Mailing Notice Letter  
Affidavit of Publication of *The Journal News*  
Minutes of Public Hearing

[Attached hereto]

YIDA Resolution No. 05/2023-09  
Final Resolution – Verus Development LLC  
May 25, 2023  
TC: Harris Beach PLLC

**EXHIBIT B**

Negative Declaration

[Attached hereto]